



March 29, 2010

Mr. Ronald Carpenter  
Clerk of the Washington State Supreme Court  
PO Box 40929  
Olympia, WA 98504-0929

RE: Comments on Proposed Amendment to CrRLJ 3.1(d)

Dear Mr. Carpenter:

The Association of Washington Cities and the Washington State Association of Municipal Attorneys respectfully request that the Supreme Court Rules Committee not move forward with proposed changes to court rule CrRLJ 3.1(d) to require certification of compliance with the WSBA Standards for Indigent Defense Service, which include caseload limits of 300 to 400 misdemeanor cases depending on case type, prior to assignment of a lawyer for an indigent person. As our organizations have expressed in response to a similar proposal put forward in 2008, adopting by reference the Standards for Indigent Defense Services as part of the court's assignment of counsel for an indigent defendant would create uncertainty and result in a new expensive mandate for some courts of limited jurisdiction.

Cities support the policy behind the proposed change. In fact, cities worked with the counties, courts, judges, and State Bar Association several years ago to support state funding for public defense services in our state's courts. The Office of Public Defense has documented that those funds have been used to successfully facilitate efficiencies in court administration and increase the quality of public defense services. In several cases, the funds were used to decrease public defender caseloads and to provide an assigned public defender for arraignments. RCW 10.101.030 requires counties and cities that provide public defense service to adopt an ordinance establishing public defense standards, and the WSBA public defense standards serve as guidelines for the development of those local standards. It is unclear how this proposed rule would operate in conjunction with those locally adopted ordinances or how the new standards would impact contracts currently in effect that are based on the locally adopted ordinances. Further, some of the standards in the WSBA guidelines pertain only to felony matters or are outside of the control of an individual attorney.

For 2010, 18 cities shared approximately \$608,000 in grant funds from the Office of Public Defense for these purposes. We continue to believe that this is a preferred method of providing incentives to reach the policy goals that underlay this proposed rule. However, we also note that these funds, in addition to the \$5.7 million distributed to counties for public defense, represent a small percentage of the documented \$132 million in needs that the Justice in Jeopardy report concluded was necessary. In fact, the 2009 Status Report on Public Defense showed that even with the grant and significant progress, many jurisdictions had not yet been able come into compliance with the standards. The 2009 report documents that county misdemeanor caseloads ranged up to 800 cases per attorney and some cities reported caseloads as high as 1,000 or more misdemeanor cases per attorney. In these times of budget reductions, we also recognize that those funds may be in more demand by more jurisdictions, without sufficient state or local resources to meet the increased need.

We continue to believe that this cooperative approach and sufficient funding from the executive and the legislative branches, in addition to the judiciary, is the preferred method of providing incentives to reach the policy goals that underlay this proposed rule. We would also note that cities are facing dramatic choices regarding maintaining services during this prolonged recession. The need for local governments to provide more services and increased caseloads in spite of decreasing revenues is facing almost all local governments.

Therefore, we respectfully request that the court not move forward with the proposed amendment to CrRLJ 3.1(d).

Sincerely,

Heidi Wachter  
President  
Washington State Association of Municipal Attorneys

Mike McCarty  
Chief Executive Officer  
Association of Washington Cities